

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

100-8113

In the Matter of

Implementation of Section 309(j)	)	MM Docket No. 97-234
of the Communications Act --	)	
Competitive Bidding for Commercial	)	
Broadcast and Instructional Television	)	
Fixed Service Licenses	)	
	)	
Reexamination of the Policy	)	GC Docket No. 92-52
Statement on Comparative Broadcast	)	
Hearings	)	
	)	
Proposals to Reform the Commission's	)	GEN Docket No. 90-264
Comparative Hearing Process to	)	
Expedite the Resolution of Cases	)	

TO: The Commission

OPPOSITION OF J. THOMAS LAMPRECHT  
TO PETITION FOR RECONSIDERATION

1. J. Thomas Lamprecht hereby opposes the Petition for Reconsideration submitted in the above-captioned matter by Barbara D. Marmet and Frederic Broadcasting LLC (collectively referred to herein as "Ms. Marmet"). As the Commission is aware, Mr. Lamprecht and Ms. Marmet are -- and have, for more than a decade, been -- competing applicants for a new FM authorization in Middletown, Maryland.

2. As an initial matter, it is clear that Ms. Marmet's Petition is not really a petition for reconsideration of the various industry-wide matters at issue in the instant rule making proceeding. Rather, her petition is nothing more than a transparent effort to re-present allegations and arguments relating to the very narrow, two-party Middletown, Maryland

adjudicatory proceeding. But Ms. Marmet has already placed those very same allegations and arguments before the Commission in multiple different pleadings over the last few years. <sup>1/</sup>

Mr. Lamprecht believes that it is highly inappropriate to attempt to re-direct this wide-ranging rule making proceeding in order to obtain relief relative to a very narrow two-party adjudicatory proceeding. <sup>2/</sup>

3. Additionally, as the Commission is also aware, multiple petitions for review of the Commission's rule making decision under consideration here have been filed with the U.S. Court of Appeals for the District of Columbia Circuit. At least one of those petitions has raised a number of issues which could have a substantial impact on the resolution of the FM proceeding involving the competing applications of Mr. Lamprecht and Ms. Marmet. See Bechtel v. FCC, No. 98-1444 (D.C. Cir. filed September 21, 1998). Mr. Lamprecht also intends to seek judicial

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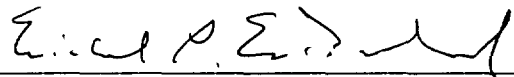
<sup>1/</sup> At Page 3 of her Petition, Ms. Marmet states that the current Commission "may not have had the opportunity to consider" her various allegations. That claim is hard to take seriously, as Ms. Marmet's allegations have been pending before the Commission in various forms continuously for years. It is disingenuous, at best, for her to claim that the Commission has, at any recent time, lacked the "opportunity to consider" her claims.

<sup>2/</sup> Of course, to the extent that the Commission may, for whatever reason, be inclined to consider the case-specific factual claims advanced by Ms. Marmet in her Petition, Mr. Lamprecht expects that the Commission will also consider his repeated responses to those claims, responses which have been lodged over the years with the Commission and the Court of Appeals, which are a matter of record, and which are hereby incorporated by reference. Those responses demonstrate that Ms. Marmet's claims are neither factually-based nor legally sound.

review based on arguments which are consistent with those presented in the Bechtel petition. Those arguments include, inter alia, the assertion that certain classes of applications must, as a matter of constitutional law, be subject to non-auction resolution. The classes of applications would include those which, like Mr. Lamprecht's, were filed as much as a decade or more ago and which were prosecuted pursuant to standards completely inconsistent with the auction approach adopted by the Commission herein.

4. Mr. Lamprecht submits that, in view of the proceedings already pending (or, in Mr. Lamprecht's case, soon-to-be-pending) before the Court of Appeals, it would be most appropriate for the Commission at this point to withhold any action at all in the Middletown, Maryland comparative proceeding pending further direction from the Court of Appeals.

Respectfully submitted,



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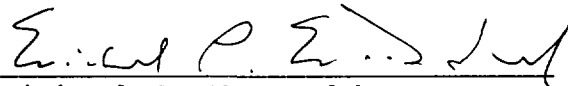
Counsel for J. Thomas Lamprecht

November 5, 1998

CERTIFICATE OF SERVICE

I, Michael P. McDonald, do hereby certify that I have caused to be served by mail, First Class postage prepaid, this 5th day of November, 1998, copies of the foregoing "OPPOSITION OF J. THOMAS LAMPRECHT TO PETITION FOR RECONSIDERATION" to the following:

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Michael P. McDonald